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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/638,156	08/08/2003	Kathleen Romano	22-0610	3586
40158	7590	07/18/2005	EXAMINER	
LEONARD & PROEHL, PROF. L.L.C. 3500 SOUTH FIRST AVENUE CIRCLE SUITE 250 SIOUX FALLS, SD 57105			NOVOSAD, JENNIFER ELEANORE	
			ART UNIT	PAPER NUMBER
			3634	

DATE MAILED: 07/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/638,156

Applicant(s)

ROMANO, KATHLEEN

Examiner

Jennifer E. Novosad

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 08-08-2003
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 8, 10, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,069,021 (Gray '021).

Gray '021 discloses a clothes drying apparatus comprising a support assembly being adapted for being selectively positioned on a support surface whereby the support assembly comprises a stanchion member (2) and a plurality of base members (12) pivotally coupled (see Figure 6) to the stanchion member (2) whereby the base members pivot between a deployed position (see Figure 1 and dotted lines in Figure 3) and a stored position (see Figure 3) with the base members (12) being positioned substantially parallel to the stanchion member (2) when in the stored position and the base members (12) extending at an angle, i.e., of 90 degrees, relative to the stanchion (2) member when in the deployed position; a plurality of frame assemblies (i.e., one third of rack is one frame assembly) being pivotally coupled (see Figure 5) to the support assembly (2) such that the frame assemblies selectively radiate (see Figure 1) from the support assembly (2); the support assembly comprising a hook member (146) coupled to the stanchion member (2); each of the support frame assemblies comprising a pair of frame members (adjacent members 16 define a pair) pivotally coupled to the support assembly so that the frame members

Art Unit: 3634

(16) are pivotal between a collapsed position (see Figure 3) and an extended position (see Figure 1) whereby the frame members (16) are substantially parallel to the support assembly when in the collapsed position and the frame members extend radially from the support assembly when in the extended position; each support frame assembly comprising a support member (part of 144) coupled to the frame members (16) and being stretched between the frame members (16); each of the support frame assemblies comprising a line member (46 on outside of Figure 2) coupled (at 48) to at least one of the frame members (16); each of the frame assemblies comprising at least one band member (at 30) coupled to the frame members (16) and extending therebetween and each of the frame assemblies comprising at least one securing member (46 in middle of Figure 2) coupled to the frame members (16).

It is noted that the garment itself (144) in Gray '021 has been utilized to define the support member that is stretched between frame members. Since the claims are merely *functionally* reciting that clothes are dried, secured, placed, etc. in the rack, the garment in Gray '021 is considered to meet the *positively* claimed limitations.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gray '021, alone.

Gray '021 disclose the rack as advanced above.

Art Unit: 3634

The claim differs from Gray '021 in requiring the support member to be a mesh material.

Although the support member in Gray '021 is not disclosed as being a mesh material, it would have been an obvious design choice to one of ordinary skill in the art at the time the invention was made to have placed a mesh material in the rack of gray '021 to assist in the drying time.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gray '021 as applied to claims 1-8, 10, and 11 above, and further in view of U.S. Patent No. 2,923,449 (Sund '449).

Gray '021 disclose the rack as advanced above.

The claim differs from Gray '021 in requiring a plurality of clip members.

Sund '449 teaches the use of clips (24).

*Thus*, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the rack of Gray '021 with a plurality of clips, as taught by Sund '449, attached to the line member, for increased ease in use since additional items can be suspended therefrom.

Claims 12-14 rejected under 35 U.S.C. 103(a) as being unpatentable over Gray '021 in view of Sund '449.

Gray '021 discloses the rack as advanced above.

The claims differ from Gray '021 in requiring: (a) the support member to be a mesh material, and (b) a plurality of clip members.

*With respect to (a)*, although the support member in Gray '021 is not disclosed as being a mesh material, it would have been an obvious design choice to one of ordinary skill in the art at

Art Unit: 3634

the time the invention was made to have placed a mesh material in the rack of gray '021 to assist in the drying time.

*With respect to (b), Sund '449 teaches the use of clips (24).*

*Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the rack of Gray '021 with a plurality of clips, as taught by Sund '449, attached to the line member, for increased ease in use since additional items can be suspended therefrom.*

#### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer E. Novosad whose telephone number is (703)-305-2872. The examiner can normally be reached on Monday-Thursday, 5:30am-4:00pm.

Please note, that due to the relocation of the U.S. Patent and Trademark Office from Arlington to Alexandria, Virginia, the Examiner's phone number will be changed. After April 5, 2005, please contact the Examiner at (571) 272-6832.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on (703)-308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3634

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jennifer E. Novosad  
Primary Examiner  
Art Unit 3634

Jennifer E. Novosad/jen  
February 15, 2005